

**Remarks:**

Applicants have read and considered the Office Action dated March 9, 2009 and the references cited therein. Claims 1 and 7 have been amended and new claim 11 has been added. Claims 1, 3-7 and 11 are currently pending. Reconsideration is hereby requested.

In the Action, claims 1 and 3-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over either DE 199 48 366 or WO 2004/023949. Applicants respectfully traverse the rejection. Claims 1 and 7 have now been amended to provide clarification and clearly distinguish over the cited references. Claim 1 now recites, *inter alia*, identification means comprising at least one shape sensor sensing and detecting shape characteristics of containers that differ from one another and at least one weight sensor detecting weight of the containers that differ from one another. Moreover, claim 1 recites that the identification means generates an identification signal based on the shape and weight detected by the at least one shape sensor and the at least one weight sensor that specifies the container detected. Applicants assert that claim 1 patentably distinguishes over the cited prior art or any other prior art or combination thereof.

Moreover, claim 7 has been amended and now recites, *inter alia*, that the identification means comprises at least one shape sensor automatically sensing and detecting shape characteristics of containers that differ from one another and at least one weight sensor automatically detecting weight of the containers that differ from one another but that are all filled with a foodstuff for subsequent consumption from the container, wherein the identification means generates an identification signal that specifies a container detected by the at least one shape sensor and the at least one weight sensor. Applicants assert that none of the prior art or any combination thereof teaches or suggests such a dispensing device with identification means as recited.

DE '366 only discloses a controlling device for dispensing where different security levels are chosen depending on the user, who is identified by voice. There is no sensor for detecting the shape of the container and there is no sensor for detecting the weight of the container to identify the container disclosed. Therefore, the German '366 reference does not address the problem of identifying the container with high reliability and properly filling the container to a correct level and with the correct liquid. One of ordinary skill in the art would not be led to the dispensing device recited in the claims.

Similarly, the WO '949 publication discloses a dispensing device where only the height of the container is detected to adjust filling. The type of liquid is not chosen according to the container, only the amount to be dispensed. Moreover, WO '949 does not identify the container and does not provide for then selecting the proper type of liquid and the proper amount for filling the container. One of ordinary skill in the art would not find the dispensing device recited in claims 1 and 7 obvious in view of the WO '949 reference or in combination with the DE '366 reference or any other prior art or combination thereof.

Applicants assert that the dispensing device recited provides for inserting a container in the dispensing device and automatically having the dispensing device sense the shape of the container and sense and determine the weight of the container. None of the prior art references provides for sensing both the weight and shape of the container. The use of both weight **and** shape provides for higher reliability and properly identifying the container and also provides for differentiating between containers that have different shapes so that different liquids may be dispensed into them. This is not possible or obvious with the prior art. Applicants assert that the prior art fails to teach or suggest use of both types of sensors and fails to achieve the reliability in identification for dispensing and determining the amount and type of foodstuff to be dispensed. Applicants therefore assert that claims 1 and 7 patentably distinguish over the prior art or any

combination thereof. Moreover, Applicants assert that claims 3-6 depending from claim 1 are also allowable for at least the same reasons as well as others.

New claim 11 further clarifies that the shape sensing device is an optical sensor. Use of such an optical sensor provides for reliable determination of the shape of the container as well as ensuring that the container is properly positioned on the dispensing device. Applicants assert that none of the prior art teaches or suggests a shape sensor comprising an optical sensor. Applicants assert that claim 11 patentably distinguishes over the prior art and is in condition for allowance.

A speedy and favorable action in the form of a Notice of Allowance is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicants Representative at (612) 336-4728.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725.



Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: \_\_\_\_\_

6/9/09

By: \_\_\_\_\_

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